

HHCTCP Visual & Aesthetics Chapter
Barr review – 11/18/09

In response to:

Background and Questions for FTA Regarding Comments and Responses on
Section 4.8 Visual and Aesthetic Chapter (DTS)

Discussions of the October 2 (pdf) version are in blue.

Discussions of the October 9 (AFEIS) version are in black.

p. 5-49

4.8.1

No objection to adding, “*The Coastal Study...*” sentence.

p. 4-61

4.8.2

No objection to adding, “*These figures are included in... received in the
Draft EIS.*”

p. 4-65

4.8.3

The pdf contained the sentence, “*In response to their (the public’s)
comments, further analysis of views and vistas has been done, and the visual
effects of several key views have been reevaluated.*” Based upon the serious
local concern with visuals and aesthetics expressed during the comment
period – this was exactly the right response. Why has this been removed
from the AFEIS? We note in your Background Q&A that you are concerned
that “*...substantial changes and new information and analysis (will be)
included in the FEIS.*” FTA has no such concerns. We received highly
negative “viewer response” during the comment period and following V&A
methodology, we acted in the appropriate manner. In the two bullets of your
Background Q&A your Corporation Counsel misrepresents the purpose of
public comment on a DEIS. OK – 3/2/2010

Same paragraph

The sentence beginning, “*The mitigation section has been expanded...*” was
removed. How does removing this language clarify anything? It seems that
where the pdf clarified, the AFEIS muddled. We note that the AFEIS

subsection on mitigation was greatly expanded. Moreover, mitigation is more the province of an FEIS where determining impacts is the province of a DEIS.

p. 4-66

4.8.3

The two sentences, “*The FEIS also acknowledges that the project will conflict with Revised Ordinances of Honolulu Section 24-1.4 (ROH 1978b) ... siting controls established in the Land Use Ordinance*” have been removed from the AFEIS. It was acknowledged in the DEIS that several sector development plans protected various viewsheds, and products of the built environment could have adverse impacts on views. Are we now saying that these SDPs no longer exist, or are we simply saying that we will now not acknowledge that the project is essentially in violation of local ordinances?

After a review of ROH 24-1.4, it is clear that the original interpretation, “*The FEIS also acknowledges that the project will conflict with Revised Ordinances of Honolulu Section 24-1.4 (ROH 1978b) ... siting controls established in the Land Use Ordinance*” was accurate. I understand the preference of City Corporation Counsel here for an official finding that the Project does not conflict with the 24-1.4(a) Public Views section of the ordinance. However, after reading the ordinance, anyone afflicted with a reasonable case of reading comprehension would probably come to precisely the opposite conclusion. The ordinance states:

“The design and siting of all structures shall reflect the need to maintain and enhance available views of significant landmarks. No development shall be permitted that will block important public views.
Whenever possible, overhead utility wires and poles that significantly obstruct public views shall be relocated or placed underground.”

TPE-30 recommends that the language related to Chapter 21 on page 4-59 of the October 2009 be reinserted in the FEIS, and requests the opinion of FTA legal counsel on this.

p. 4-66

Environmental Consequences

Three sentences beginning, “*The draft EIS identified “high” level consequences...*” have been added. Again the question is: how does this apparent muddle of language clarify anything? Saying, “*the Project’s visual consequences have been characterized as low, moderate or significant*” in

the preceding sentence is both clear and concise. The additional language should all be removed. If you feel the need to explain how “high” in the DEIS was replaced by “significant” in the FEIS, simply cite 40 CFR 1508.27 for the NEPA definition of significant. **OK – 3/2/2010 review**

p. 4-69

Language in the pdf was removed which stated, *“Some adverse visual effects, such as view blockage, cannot be mitigated and will result in probable unavoidable adverse environmental effects.”* This sentence is not only clear and concise – it is definitive – in that it defines the purpose of creating an EIS. The replacement language in the AFEIS (p. 4-67): *“Even with mitigation, some obstructions will result in a high level of visual impact, or significant impact, and changes to some views will be unavoidable”* demonstrates a higher degree of malleability, and obscures the negative impacts rather than illuminating them. *“Some obstructions?”* What is that supposed to mean? **The pdf language should prevail. OK – 3/32/2010**

p. 4-89

The Project

“Significant” is the NEPA term for a serious environmental impact. “Significant” impacts are serious enough to differentiate the preparation of an EIS (Class I action) from the “no significant impacts” typically found in EAs, or Class II documents. In the narrative of the V&A chapter of the AFEIS, the word “significant” is repeatedly preceded or followed by the modifier, in parentheses (*or a high level of visual impact*). The word “high” has no meaning in a NEPA context. This language acts as a red herring and appears intended to distract the reader from the intention of the word “significant” – remove the modifier “high” wherever it appears in the chapter. **OK – 3/2/2010**

p. 4-103

Design Principles and Mitigation

The pdf led this subchapter off with, *“The following design principles are identified in the Honolulu High-Capacity Transit Corridor Project Compendium of Design Criteria (RTD 2009m) and will be implemented in Final Design as mitigation measures to minimize visual effects.”* The language disappears from the AFEIS. Why would citation of an authoritative compendium of design mitigation measures, presumably developed precisely for this eventuality, be discarded at the eleventh hour for a set of bullet points? **OK – 3/2/2010**

p. 4-107

last two paragraphs of the V&A chapter

Again, the issues of “significant,” “unavoidable” and conflict with existing City ordinances are soft-pedaled or ignored in favor of self-serving language. The summary at the end of the pdf V&A chapter reflected its preceding narrative and largely stated the facts – however cruel; that the project is in violation of existing statutes regarding view sheds and has significant and unavoidable impacts. Use the final paragraph of the pdf in the FEIS. OK 3/2/2010